IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

DATE

patent application of

Akira ASAOKA, et al.

Serial No.:

10/781,820

Group Art Unit:

2852

Filed:

February 20, 2004

Examiner:

Walsh, Ryan D.

For:

BELT UNIT OF ELECTROPHOTOGRAPHIC PRINTING

APPARATUS

Commissioner for Patents Alexandria, Virginia 22313-1450

PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION

Sir:

In response to the Notice of Abandonment dated July 7, 2006, in the above-identified application, and in accordance with <u>Delgar, Inc., v. Schuyler</u> (172 USPQ 513) (DDC 1971) and MPEP § 711.03(c), page 700-92, second column (Ed. 7, July 1998), Applicants contend that the original Office Action was never received and hereby petition for the Office Action to be re-mailed and for withdrawal of the holding of abandonment.

Accompanying this Petition is the Declaration of Mary C. Gibb, Manager of the Docketing Department in the undersigned's law firm of McGinn Intellectual Property Law Group, PLLC. As set forth in that Declaration, Ms. Gibb, in her capacity as Manager of the Docketing Department, is intimately familiar with all of the details regarding the processing of mail received in the Docketing Department, including correspondence received from the U.S. Patent and Trademark Office. Attached to the Declaration is supporting documentation

(Exhibits 1-3) showing that no Office Action in the subject application was processed by the Docketing Department or received by the undersigned's law firm.

Another of the attachments (Exhibit 4) to the Declaration of Ms. Gibb, is a copy of the front cover of the subject application's file jacket maintained in the undersigned's law firm. It should be noted that the file jacket cover shows the chronological sequence of correspondence between the undersigned's law firm and the U.S. Patent and Trademark Office. As noted on the cover, the application was filed on February 20, 2004, with Declaration and Assignment. There is no indication of receipt of any Office Action by the undersigned's law firm.

The undersigned has been associated with McGinn Intellectual Property Law Group, PLLC, for a number of years, and in that time has been able to rely on the performance of the Docketing Department to provide conscientious, reliable, and competent notice of due dates for responses to correspondence received from the U.S. Patent and Trademark Office. Based on the undersigned's familiarity with the good work performed by the employees of the Docketing Department, it is respectfully submitted that the only reasonable conclusion is that no Office Action was ever received by the undersigned's law firm for the above-identified application.

Further, the Image File Wrapper of the private Patent Application Information Retrieval system indicates that the Office Action was returned to the USPTO as undelivered on December 1, 2005 (Exhibit A). In accordance with MPEP § 707.13, "The examiner should use every reasonable means to ascertain the correct address and forward the letter again . . ." It is noted that the Office Action was not remailed.

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Pursuant to the detailed description provided in the Declaration of Ms. Gibb, which description is believed to satisfy fully the requirements set forth in MPEP § 711.03(c), Applicant respectfully requests that the Office Action be re-sent in the subject application and that the holding of abandonment be withdrawn.

Since this error is due to the U.S. Patent and Trademark Office, no fee is believed necessary. Please charge any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 50-0481.

Respectfully submitted,

Sean M. McGinn, Esq. Registration No. 34,386

Date:

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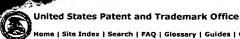
LAW GROUP, PLLC

8321 Old Courthouse Road, Suite 200 Vienna, Virginia 22182-3817

(703) 761-4100

Customer No. 21254

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Patent eBusiness Electronic Filing

Patent Application Information (PAIR)
 Patent Ownership

Fees

Supplemental Resources & Support

Patent Information

Patent Guidance and General Info

Codes, Rules & Manuals

Employee & Office Directories Resources & Public Notices

Patent Searches

Patent Official Gazette

Search Patents & Applications

Search Biological Sequences Copies, Products & Services

Other

Copyrights Trademarks Policy & Law Reports

Secured Patent Application Information Retrieval

Order Certified Application As Filed Order Certified File Wrapper

Belt unit of electrophotographic printing apparatus 10/781,820

This application is officially maintained in electronic form. To View: Click the desire Description. To Download and Print: Check the desired document(s) and click Star

Available Documents

Document	
Mail Room Date 🖺 Description	⑦ Document Category ② Page Count ③

	12-01-2005	Mail returned to USPTO as undelivered	PROSECUTION	12
_	11-30-2005	Non-Final Rejection	PROSECUTION	9
•	11-30-2005	List of References cited by applicant and considered by examiner	PROSECUTION	1
	11-30-2005	List of references cited by examiner Search	PROSECUTION	1
	11-30-2005	information including classification, databases and other	PROSECUTION	1
	11-30-2005	search related notes Bibliographic Data Sheet	PROSECUTION	1
	11-28-2005	Examiner's search strategy and results	PROSECUTION	4
	07-06-2005	Miscellaneous Incoming Letter Miscellaneous	PROSECUTION	1
	02-04-2005	Incoming Letter	PROSECUTION	1
	05-13-2004	Pre-Exam Formalities Notice	PROSECUTION	1
	04-02-2004	Miscellaneous Incoming Letter	PROSECUTION	1
	04-02-2004	<u>Drawings</u>	PROSECUTION	2
	04-02-2004	Foreign Priority Papers Filed Foreign	PROSECUTION	13
	04-02-2004	Priority Papers Filed	PROSECUTION	15

EXHIBIT A

Trademark	Office
II Juciliai K	Office

	Authorization		,
02-20-2004	for Extension of Time all replies	PROSECUTION	4
02-20-2004	Transmittal letter	PROSECUTION	4 🗔
02-20-2004	Specification	PROSECUTION	14
02-20-2004	<u>Claims</u>	PROSECUTION	3
02-20-2004	Abstract	PROSECUTION	1
02-20-2004	Drawings	PROSECUTION	2
02-20-2004	Oath or Declaration filed	PROSECUTION	
02-20-2004	Information Disclosure Statement (IDS) Filed	PROSECUTION	
02-20-2004	<u>Foreign</u> <u>Reference</u>	PRIOR ART	5 Q
02-20-2004	<u>Fee</u> <u>Worksheet</u> (PTO-875)	PROSECUTION	1
02-20-2004	<u>Fee</u> Worksheet (PTO-875)	PROSECUTION	1 .

If you need help:

- Call the Patent Electronic Business Center at (866) 217-9197 (toll free) or e-m for specific questions about Patent Application Information Retrieval (PAIR).
- Send general questions about USPTO programs to the USPTO Contact Center (
- If you experience technical difficulties or problems with this application, please e-mail to Electronic Business Support or call 1 800-786-9199.

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ALEXANDRIA, VA 22313-1450 IF UNDELIVERABLE RETURN IN TEN DAYS P.O. BOX 1450

OFFICIAL BUSINESS



United States Patent and Trademark Office

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,820	02/20/2004	Akira Asaoka	H64-163097M/MNN	3957
	590 11/30/2005		EXAM	INER
	FELLECTUAL PRO URTHOUSE ROAD	PERTY LAW GROUP, PLLC	WALSH, I	RYAN D
SUITE 200			ART UNIT	PAPER NUMBER
VIENNA, VA	22182-3817		2852	
		•	DATE MAILED: 11/30/2005	;
		RECEIVED OIPE/IAP		٠.
		DEC 0 1 2005		•••

Please find below and/or attached an Office communication concerning this application or proceeding.

In re patent application of

Akira ASAOKA, et al.

Serial No.: 10/781,820 Group Art Unit: 2852

Filed: February 20, 2004 Examiner: Walsh, Ryan D.

For: BELT UNIT OF ELECTROPHOTOGRAPHIC PRINTING

APPARATUS

Commissioner for Patents Alexandria, Virginia 22313-1450

DECLARATION OF MARY C. GIBB

Sir:

- I, Mary C. Gibb, hereby declare as follows:
- I am Manager of the Docketing Department of the law firm of McGinn
 Intellectual Property Law Group, PLLC.
- 2. My duties as Manager of the Docketing Department require me to be intimately familiar with how the firm handles the mail, facsimile, and courier packages which arrive at McGinn Intellectual Property Law Group, PLLC.
- 3. Each business day (Monday-Friday), McGinn Intellectual Property Law
 Group, PLLC, receives a large volume of correspondence from the U.S. Patent and
 Trademark Office (PTO). That correspondence relates to patent and trademark applications

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handled as follows.

being handled by McGinn Intellectual Property Law Group, PLLC, and includes Office
Actions. Generally, since McGinn Intellectual Property Law Group, PLLC, is located in
Vienna, Virginia, PTO correspondence is received by the law firm within one or two business
days after the PTO mailing date, although sometimes it takes longer. All mail is received in

the Docketing Department, including PTO correspondence. The PTO correspondence is

- 4. An individual employed in the Docketing Department of McGinn Intellectual Property Law Group, PLLC, receives all pieces of PTO correspondence before they are opened. That same individual opens each piece of correspondence from the PTO one at a time.
- 5. As the PTO correspondence is opened, an entry is made by that same individual by hand, in a docket book, for each such piece of correspondence requiring a response to be provided to the PTO by a certain due date. For example, an Office Action must be answered within the response time specified therein (within one, two, or three months of the mailing date), and so an entry would be made in the docket book on a due date for the required period of time for the Office Action and also six months after the mailing date of the Office Action (the non-extendable date). Attached as Exhibit 1 to my Declaration are copies of the pages of the docket book for items having a due date of December 30, 2005, January 30, 2006, and February 28, 2006 (one, two, and three months from the alleged mailing date of the Office Action), as well as that of May 30, 2006 (the last and non-extendable date). As can be seen from Exhibit 1, there is no entry for the above-identified

NGB.365

application, indicating that the Office Action in question was never received by McGinn Intellectual Property Law Group, PLLC.

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- 6. Once the PTO Office Action received on a given date has been manually entered in the docket book as just described, the appropriate file for the PTO Office Action is pulled and matched up to that Office Action. The appropriate file and the PTO Office Action is then given to the secretary to the attorney responsible for handling the file. The secretary then enters the PTO Office Action and the response due date in the secretary's docket book and on the front cover of the application's file jacket.
- 7. On a weekly basis, a docket of cases due that week and the pertinent due dates for response for each case is given to each person at McGinn Intellectual Property Law Group, PLLC. This docket is double-checked with the docket maintained by the secretary. I have reviewed this list, and it does not include an entry for the above-identified application. Attached as Exhibit 2 to my Declaration is a copy of the list of cases submitted (due) for the weeks of December 27, 2005, to January 2, 2006; January 24 to January 30, 2006; February 28 to March 6, 2006; and May 30 to June 5, 2006. As can be seen from Exhibit 2, there is no entry relating to a PTO mailing of an Office Action in connection with the above-identified application.
- 8. In addition to manually entering entries in the docket book as just described, the same information is entered in our computer docketing program. Attached as Exhibit 3 to my Declaration is a copy of the report from the computerized docketing program for the above-identified application. As can be seen from Exhibit 3, there is no entry indicating that the

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Office Action in question was never received by McGinn Intellectual Property Law Group,

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PLLC.

9. Further, I attach Exhibit 4, which is a copy of the front cover of the subject

application's file jacket. It should be noted that the file jacket front cover shows the

chronological sequence of correspondence between the law firm and the U.S. Patent and

Trademark Office. The left side of the front cover is filled in by the Attorney's secretary as

Actions are received and docketed by them. The right side is filled in by the Attorney's

secretary as the Actions are completed. As shown, there is no evidence showing an Office

Action was ever received.

10. Based on my review of Exhibits 1-4, and on my personal knowledge of the

procedures followed by McGinn Intellectual Property Law Group, PLLC, in the Docketing

Department for handling PTO Office Actions, I conclude that no Office Action was received

by McGinn Intellectual Property Law Group, PLLC, for the above-identified application.

11. The Notice of Abandonment which was received by McGinn Intellectual

Property Law Group, PLLC, on July 10, 2006, is the most recent communication from the

PTO for the above-identified application. This Notice of Abandonment is addressed to our

current address at 8321 Old Courthouse Road, Suite 200, Vienna, Virginia 22182-3817.

Further Declarant saith not.

I declare further that all statements made herein of my own knowledge are true and

that all statements made on information and belief are believed to be true; and further, that

NGB.365

these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

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Date:

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LAW GROUP, PLLC

8321 Old Courthouse Road, Suite 200 Vienna, Virginia, 22182, 2817

Vienna, Virginia 22182-3817

(703) 761-4100

Customer No. 21254

Mary C. Gibb

Manager, Docketing Department

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EXHIBIT 1	+
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2006 150th day - 215 days follow MAY 30 TUESDAY Smm KCE हो। क्रु.अंक 5116 amend. 5/30 5/30 FEC"

DOCKET December 27, 2005 - January 2, 2006 this with your percent declarated in 6

Please compare this with your personal docket and inform us of any changes or additions!			
DUE DATE	FILE	ACTION	ATTY
Tuesday, 12/27/05	PIS.001 TPR	Response	SMM
	UNI.021	IDS	PEM
	USH.001 DIV	IDS	PEM
	YOR.398	IF+Dwgs	FEC
	YOR.298	Issue Fee	FEC
<u>Issue Date:</u>		·	
Wednesday, 12/28/0	5 NGB.276	Response	SMT
	PRI.005	Response	SMT
	YOR.427	FINAL (2 mo.)	SMT
	HIR.046	Response	JND
	UDA.020	FINAL (L. Day)	JND
	IDE.006	2 x	FEC
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Thursday, 12/29/05	FOX.001	20 month entry	JND
	LEN.011	Response	JND
	EBI.009	Response (1 mo.)	SMM
	NEC.247	FINAL (5 mo.)	SMT
	YOR.248	Response	SMT
	FUJIT.022 DIV	Response	SMT
	FUK.004	Issue Fee	JEH
	NGB.392	Issue Fee	JEH
	ONO.024	Issue Fee	JEH
	ORI.082	Statement of Use due 3/29/06.	SMM
T:1 10/00/05	*****		
Friday, 12/30/05	KYO.009	Response	SMT
	FUJIT.060	Response	SMT
	HIR.087 DIV1	Issue Fee	SMM
	NGB.442	IDS	SMM
	NGB.436	I. Fee (L. Day)	SMM
	YOR.291	FINAL (3 mo.)	JJD
•	KOB.001 DIV	I. Fee (L. Day)	JEH
	SHI.024	Resp. (L Day)	FEC
Saturday, 12/31/05			
Saturday, 12/51/05			
Sunday, 1/1/06	YOR.380	FINAL (2 mo.)	JEH
	YOR.517	Response (1 mo.)	FEC
		1 ()	110
Manday 1/0/06	NOD 501		
Monday, 1/2/06	NGB.581	NOMP	SMM
	CLO.001	1 x	JEH

EXHIBIT 2

DOCKET

January 24, 2006 - January 30, 2006

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DUE DATE	mpare (dis With You	ir personal docket and inform	a us of any ch	anges or additions!
Tuesday, 1/24/06	<u>FILE</u> KAT.011	ACTION		ATTY
1 400day, 1/24/00		Response		JEH
	RYU.010	FINAL (3mo.)		SMT
	NGB.203	Issue Fee		JJD
	IGA.048	IDS		SMM
	82 RYU.009DIV SMT	6,988,421 NGB.319 SMT	6.000.676	***
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Wednesday 1/25/0	S IDII 025 DIII		0,770,338	YAN.023 SMM
Wednesday, 1/25/0		IDS		SMT
•	NUV.008 RA	IDS		SMT
	UNI.037	IDS		SMM
	IEI.013	IDS		SMM
	NGB.344	Issue Fee		JEH
	YOR.442	Response		
	MAT.018	Issue Fee		JEH JBW
Thursday, 1/26/06	MAR.081	EDIAT (4		02 W
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	FIS.078	FINAL (4mo.)		SMT
		FINAL (3mo. amend 12/27	7/05)	SMT
	NGB.288	I. Fee (L. Day)	_	SMT
	KUD.079 .	Response		JND
	EBI.029	I. Fee (L. Day)		SMM
	MAT.016	IDS		SMM
	MAT.017	IDS		SMM
	MAS.004	Issue Fee		JJD
	YOR.523	FINAL (5mo.)		
	YAS.039	IDS		JJD
	NEC.267	1 X		JEH
Friday, 1/27/06	TET D C oo .			FEC
11day, 1/2//06	KUM.004	I. Fee (L. Day)		ЈЕН
	YOR.514	Response		SMM
	PIS.001 TPR	1X		
	NGB.391	Response (1mo.)		SMM
	NGB.405	Response (1mo.)		SMM
aturday, 1/28/06	A CYT one	·		SMM
aturuay, 1/28/06	ASH.020	FINAL (L. Day)		JJD
•	NGB.430	Response		ЈЕН
	NGB.579	NOMP		SMM
	NGB.394	Response		SMM
	NGB.401	Response		
	WAK.084 DIV	FINAL (3mo.)		SMM
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	GOT.064	Brief Due	, O O	SMM
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onday, 1/30/06	YOR.291	FINAL (4mo.)		IID
		•		JJD

DOCKET

February 28, 2006 - March 6, 2006

Please compare this with your personal docket and inform us of any changes or additions!

		La	uauges or additions!
DUE DATE	FILE	<u>ACTION</u>	
Tuesday, 2/28/06	YOR.451	Issue Fee	ATTY
	YOR.427	FINAL (4mo.)	SMT
	NGB.394	1X	SMT
·	YOR.513	Brief Due	SMT
	ASH.020	Interview Summary	11 D
	ORI.047	Response	JJD
	MAS.012	FINAL (3mo. amend. 2/16/06)	JJD
	YAN.031	Response	JJD
	YOR.405	FINAL (2mo.)	DJL
	MAT.008	Response	FEC
	BUR.096	Response	FEC
	NGB.074	FINAL (3mo.)	FEC
	FUJIT.048 DIV2	FINAL (3mo.)	PEM
	WAK.084 DIV	FINAL (4mo.)	PEM
	YAS.041	FINAL (4mo. amend 2/23/06)	PEM
	HIR.089	Response	JBW
	FUJIT.062	FINAL (3mo.)	JBW
	KOYO.001	FINAL (3mo.)	JBW
	PLA.003	PCT APP	JBW
	ORI.082	Statement of Use	SMM
	KATO.053 PCT	IDS	SMM
	NEC.246	1X	SMM
	NGB.591	NOMP	SMM
	YOR.265 DIV	FINAL (2mo.)	SMM
	TAKAH.004	IDS	SMM
	MIY.003	IDS	SMM
	IEI.047	Response (1mo.)	SMM
	WAK.152	IDS	SMM
	YOR.443	Response	SMM
	NGB.401	1X	SMM
			JEH
Issue Date:			
7,005,992 HIR.071 JE		TOTAL DIVINI	D,515,831 NGB.507 SMN.
7,003,875 CLO.019 SI	MT 7,006,254 YC	PR. 283 SMM 7,005,684 NGB. 342 SMT	7,005,907 KUD.068 FEC
Wednesday, 3/1/06	YOR.380	FINAL (4mo.)	
	GOT.088	Response	JEH
	HIR.063	I. Fee (L. Day)	DJL
	KAT.023	Issue Fee	ŊĎ
	FUJIT.067	Issue Fee	JND
	HAR.024	IDS	SMM
	NGB.267	Interview Summary	SMM
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Thursday, 3/2/06	YOR.573	1yr. Provisional	SMM
	FUK.020	FINAL (4mo.)	SMT
	KATO.040	Response	DJL
•	HIR.094	Response	DJL
	ASH.019	FINAL (3mo.)	JND
	FUJI.028	FINAL (3mo. Req. w/d Finality 2/3/06)	JND
	CLO.012	FINAL (3mo.)	JJD
	FUJI.044 DIV	Issue Fee	JJD
	SHI.036 CON	I. FEE (L. Day)	JBW
Friday, 3/3/06	FUJ.037	Main. Fee Due	FFG
	UNI.031	FINAL (4mo.)	FEC
	YAN.026	FINAL (4mo.)	JND
	BUR.105	FINAL (2mo.)	JND
	YOR.422	FINAL (4mo.)	SMT
		1 1 1 1 1 (4 mo.)	SMT
Saturday, 3/4/06	LIN.002	3X?	JBW
Sunday, 3/5/06	NGB.504	Response	DJL
	YOR.432	Response	PEM
		_	
Monday, 3/6/06	EBI.022	I. Fee (L. Day)	SMT
	AMA.052	Response	JND
	NGB.441	Issue Fee	JND
	IEI.001	I. Fee (L. Day)	SMM
	FUJ.053	Issue Fee	SMM
	IEI.014	Issue Fee	SMM
	NGB.457	Issue Fee	JEH
	NEC.281	Issue Fee	FEC
	FIS.082	Correction	FEC

No.

DOCKET

May 30, 2006 - June 5, 2006

Please compare this with your personal docket and inform us of any changes or additions!			
<u>DUE DATE</u>	FILE	<u>ACTION</u>	ATTY
Tuesday, 5/30/06	TAK.048	Issue Fee	JND
	KATO.052	Issue Fee	SMM
	KUD.123	IDS	SMM
	YOR.094	FINAL (2 mo.)	JJD
	HIR.093	Response (1 x)	JJD
	YOR.564	Interview Summary	JJD
	YOR.437	Response (1 x)	SMT
	NGB.173	Response (1 x)	SMT
	YOR.405	Appeal Brief	FEC
	YOR.404	FINAL (2 mo.)	FEC
Issue Date:			

7,053,950 MAS.013 JJD 7,053,375 NGB.274 JJD 7,051,721 NGB.264 JJD 7,051,834 NGB.113 DIV JEH 7,054,634 ORI.088 SMM 7,053,834 NGB.384 JEH 7,053,511 NGB.059 JEH 7,053,401 YOR.419 SMT 7,053,306 HIR.087 DIVI SMM 7,052,258 IWA.006 JBW 7,054,798 YOR.322 FEC 7,052,979 FUJI.033 JJD 7,054,223 KATO.046 JND 7,051,642 ORI.086 SMM 7,052,979 FUJIT.057 SMM 7,051,943 YOR.146 FEC

Wednesday, 5/31/0	6 NGB.294	Issue Fee	ЈЕН		
Thursday, 6/ 1/06	NGB.060 YOR.653 YOR.654 HIR.095	I. Fee (L. Day) IDS IDS IDS	JEH JJD JJD SMM		
Friday, 6/ 2/06	HIR.108 NGB.410 TAK.034 IGA.018 DIV 2 NGB.578 NEC.313 HIR.202 MAT.008 HIR.064	Response Issue Fee Response I. Fee (L. Day) IDS Response (1 mo.) IDS Issue Fee Response (1x)	JJD JJD DJL JEH SMM SMM SMM FEC FEC		
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Sunday, 6/4/06			
Monday, 6/ 5/06	YOR.549 PCT YOR.432 ORI.072 AMA.063 FUJIT.078 WAK.127	Chapter 2 Demand Resp. (L. Day) FINAL (5 mo.) I. Fee (L. Day) Issue Fee FINAL (5 mo.)	PEM PEM SMT SMT SMM FEC

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EXHIBIT 3

Prencey: Feb. 21, 2003

NGB.36: H64-1630' M/MA

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INVENTOR AKITA FISANKA, et al. SERIAL NO. 10/781,820		
SERIAL NO. 101781.825	FUED February 20 05-11	
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